

APR 26 1984

L-84-56

Director of Compensation and Certification

Deputy General Counsel

Brownsville and Rio Grande International Railroad
Employer Status

This is in reply to your Form G-215 dated February 28, 1984, requesting my opinion as to the employer status of the Brownsville and Rio Grande International Railroad (BRGI), which has not previously been held to be an employer under the Railroad Retirement or Railroad Unemployment Insurance Acts. The General Counsel responded to your original submission of November 8, 1982 in this matter on December 2, 1982, advising that an opinion on the employer status of the then called Brownsville Port Terminal Railroad could not be made at that time because actual railroad operations had not yet begun. He further advised that the Board should be advised of the date actual railroad operations commence and the date when employees directly involved in such operations were first hired. The Board now has the necessary information.

The BRGI was established by the Brownsville Navigation District to provide railroad service as a Port Terminal switching carrier. Mr. Gilbert A. Gillette, a long time career railroad employee, was hired on September 1, 1982, to organize and set up the BRGI for actual railroad operations. Six other railroad people were subsequently hired and performed work exclusively for the purpose of setting up actual railroad operations effective September 1, 1983. Actual railroad operations began on February 26, 1984. Interstate Commerce Commission authority for the BRGI to operate as a railroad is set forth in I.C.C. Finance Docket No. 30255, decided on January 31, 1984. This document provides a detailed analysis of the various problems and disputes which were ultimately resolved but which caused the lengthy delay from the time the BRGI hired its first employee on September 1, 1982 to the time actual railroad operations began on February 26, 1984.

The BRGI operates on approximately 33 miles of track at the Port of Brownsville, Texas, and within the boundaries of the Brownsville Navigation District. It provides service for public delivery docks and customers leasing land from the Port. The BRGI interchanges with the Missouri Pacific Railroad Company (MP), an employer listed at item number 4248 of the Employer Status List. Terminal points of the BRGI are located at the

Director of Compensation and Certification

extreme east ends of the tracks paralleling the north and south banks of the Port Ship Channel, and at the west end of the Port where the BRGI connects with the MP.

In view of the foregoing, I conclude that the Brownsville and Rio Grande International Railroad became an employer under the Acts administered by the Board on September 1, 1982, at which time an employee was first hired and engaged exclusively in work preparatory to the commencement of actual railroad operations.

An appropriate entry on Form G-215 giving effect to the above conclusion is attached herewith.

Steven A. Bartholow

Attachment

SJS:ava
8355/101A
C. 350-84